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Office of the Regional Administrator

Reply to: Seattle Office

March 18, 2019

VIA CERTIFIED MAIL WITH RETURN RECEIPT

Secretary of the Navy Richard Spencer
Office of the Secretary of the Navy
1000 Navy Pentagon, Room 4D652
Washington, DC 20350

Acting United States Secretary of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

Captain Edward Schrader
Naval Base Kitsap
120 South Dewey Street, Bldg. 443
Bremerton WA 98314-5020

Captain Howard Markle
Puget Sound Naval Shipyard & Intermediate Maintenance Facility
1400 Farragut Ave. Stop 2072
Bremerton, WA 98314-2072

Re: Notice of Intent to Sue Under the Clean Water Act

Dear Sirs:

We submit this letter on behalf of Chico Creek Task Force ("Chico Creek"). The purpose is to provide you 60-days' notice of Chico Creek's intent to file suit against the United States Navy and each of you in your official capacities (collectively the "Navy"). Chico Creek asserts that the Navy has discharged pollutants into the Puget Sound without a National Pollutant Discharge Elimination System ("NPDES") permit, in violation of section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1311(a). Chico Creek intends to bring a citizen suit in accordance with provisions contained in section 505 of the Act, 33 U.S.C. §1365.

Chico Creek members and supporters live, recreate, and work throughout the Hood Canal, Dyes Inlet, Sinclair Inlet, Liberty Bay, Keyport Lagoon, and other areas proximate to Naval Base Kitsap and the Puget Sound Naval Shipyard. They frequent these waters and shorelines and are greatly

harmful by the discharge of untreated sewage, which often includes harmful chemicals and pathogens, into these waters.

Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes unlawful the discharge of any pollutant, to waters of the United States without an NPDES permit. *Hawai'i Wildlife Fund v. Cty. of Maui*, 886 F.3d 737, 744 (9th Cir. 2018). Chico Creek has learned that the Navy has repeatedly discharged untreated sewage into Puget Sound. This sewage represents a pollutant under the CWA. See 33 U.S.C. § 1362(6) (defining "sewage" as a "pollutant"). Accordingly, the discharge of sewage, if without an NPDES permit, is unlawful.

Reports provided to Chico Creek by the Kitsap Public Health District's Water Pollution Identification & Correction Department indicate that, at a minimum, the Navy is responsible for the following discharge events in waters used and frequented by Chico Creek's members, supporters, and affiliates:

March 18, 2016	Naval Base Kitsap – Bangor	2,800 gallons
March 21, 2016	Naval Base Kitsap – Bangor	2,500 gallons
January 5, 2018	Naval Base Kitsap – Keyport	1,500 gallons
January 22, 2018	Naval Base Kitsap – Bangor	84,000 gallons
February 11, 2018	Puget Sound Naval Shipyard – Bremerton	1,000 gallons
August 13, 2018	Puget Sound Naval Shipyard – Bremerton	80,000 gallons
September 5, 2018	Puget Sound Naval Shipyard – Bremerton	7,500 gallons
January 14, 2019	Puget Sound Naval Shipyard – Bremerton	500 gallons
January 22, 2019	Naval Base Kitsap – Keyport	20 gallons
January 31, 2019	Puget Sound Naval Shipyard – Bremerton	550 gallons
March 2, 2019	Puget Sound Naval Shipyard – Bremerton	4,000 gallons

Chico Creek contends, upon information and belief, that the Navy is responsible for additional discharges and, absent remedial action, that discharges will continue. Chico Creek further contends, upon information and belief, that the Navy lacks the requisite NPDES permit authorization for such discharges. Therefore, each of these discharges represents a violation of the CWA.

Chico Creek intends to sue for all violations of the CWA, including those yet to be uncovered and those committed after the date of this Notice of Intent to Sue. Chico Creek will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 USC § 1365(a) and (d), and such other relief as is permitted by law. Chico Creek will also seek costs and attorney fees in accordance with section 505(d) of the CWA, 33 USC § 1365(d).

Chico Creek believes this Notice of Intent to Sue sufficiently states grounds for filing suit. At the close of the 60-day notice period, or shortly thereafter, Chico Creek intends to file a citizen suit against the Navy under Section 505(a) of the CWA.

The full name, address, and telephone number of the party giving notice is:

Jack Stanfill
Chico Creek Taskforce
P.O. Box 4773
Bremerton, WA, 98312
Tel: (360) 373-3305

The attorneys representing Chico Creek in this matter are:

David Bricklin
Bryan Telegin
Richard Lintermans
Bricklin & Newman, LLP
1424 Fourth Ave., Suite 500
Seattle, WA 98101
Tel: (206) 264-8600

Chico Creek is willing to discuss effective remedies for the violations described above, along with appropriate settlement terms, during the 60-day notice period. If you wish to pursue such discussions, we suggest that you initiate them with us within ten (10) days of receiving this Notice so that negotiations can begin promptly. We do not intend to delay filing of a complaint in this matter merely because discussions are continuing when the notice period ends.

Very truly yours,

BRICKLIN & NEWMAN, LLP



David A. Bricklin

DAB:psc

cc: Client

Andrew Wheeler
Administrator, U.S. EPA
U.S. EPA Headquarters
William Jefferson Clinton Building
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Washington, DC 20460

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Region 10 Administrator
U.S. EPA
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Seattle, WA 98101

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U.S. Attorney General
U.S. Department of Justice
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Maia Bellon, Director
Washington Department of Ecology
P.O. Box 47600
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